

REMARKS

Claims 1, 11, 19 and 20 have been amended.

Claims 3, 5, and 24 have been canceled.

Claims 26-28 have been added.

The claims have been amended solely to facilitate prosecution of this application. For the record, it is noted that Assignee expressly does not acquiesce in the grounds of rejection or in the arguments set forth in the Office Action.

35 U.S.C. §102

MPEP 2131 quotes Verdegaal Brothers v. Union Oil of California, 814 F.2d 628, 631 (Fed. Cir. 1987) for the legal standard of anticipation: "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." (emphasis added).

Claims 1, 2, 4, 6-10 and 26-27

Amended claim 1 claims "[a] system for performing anastomosis between a graft vessel and a target vessel, each having a lumen therethrough, where an opening is present in wall of the target vessel; the system comprising: an inner element connectable to the graft vessel, said inner element including a unitary body having a closed perimeter and an opening therethrough within said perimeter; wherein said inner element is substantially oblong such that said inner element includes opposed long-dimensioned sides and opposed short-dimensioned sides; and wherein opposed sides of said inner element are movable toward one another such that said unitary body is deformable from a first configuration to a second configuration and deformable back to said first configuration from said second configuration."

In contrast, U.S. Patent No. 5,695,504 to Gifford et. al. ("Gifford") neither explicitly nor implicitly describes each and every element of claim 1. The claimed inner element is "substantially oblong such that said inner element includes opposed long-dimensioned sides and opposed short-dimensioned sides; and wherein opposed sides of said inner element are movable toward one another." (e.g., page 16, lines 14-17; page 18, line 10 through page 19, line 9; page 22, lines 16-18; Figures 1, 3, 4, 7-9).

In contrast, Gifford describes an inner element that is cylindrical and therefore radially symmetrical. (e.g., Figures 24a-24d, 25a-25d). No inner element disclosed by Gifford is "substantially oblong such that said inner element includes opposed long-dimensioned sides and opposed short-dimensioned sides," much less wherein such opposed differently-dimensioned sides are movable toward one another.

Thus, Gifford neither expressly nor inherently describes each and every element claimed in claim 1, and it is believed that claim 1 is in condition for allowance. Claims 2-4, 6-10 and 26-27 depend from claim 1, and are thus believed to be in condition for allowance as well under MPEP 608.01(n)(III).

Claims 11-18

Amended claim 11 claims "[a] system for performing anastomosis between a graft vessel and a target vessel, each having a lumen therethrough, where an opening is present in the wall of the target vessel; the system comprising: a single elastically deformable inner element connectable to the graft vessel, said inner element deflectable from a first configuration to a second configuration and expandable from said second configuration to said first configuration, wherein said second configuration allows at least a portion of said inner element to enter the lumen of the target vessel through the opening, and wherein said inner flange includes a continuous collapsible section; and an outer element connectable to

said inner element to compress a portion of the graft vessel and a portion of the target vessel therebetween.”

In contrast, Gifford neither explicitly nor implicitly describes each and every element of amended claim 11. The claimed “continuous collapsible section” is a continuous part of the inner element that may be collapsed to decrease a length of the inner element. (e.g., page 19, lines 1-9; Figure 9). The collapsible section is continuous, meaning that it is a single, unbroken structure.

In contrast, Gifford fails to disclose a continuous collapsible section. As one example, the sections 289 of the flange 284 in Figures 24a-24d of Gifford are separate and discontinuous, as are the fingers 296 of the flange 298 of Figures 25a-25d of Gifford. (e.g., col. 31, lines 60-67; col. 32, lines 42-48; col. 33, lines 15-18; Figures 24a-25d).

Thus, Gifford neither expressly nor inherently describes each and every element claimed in claim 11, and it is believed that claim 11 is in condition for allowance. Claims 12-18 depend from claim 11, and are thus believed to be in condition for allowance as well under MPEP 608.01(n)(III).

Claims 19-23, 25, 28

Claim 19 claims “[a] method for performing anastomosis between a graft vessel and a target vessel, each having a lumen therethrough, where an opening is present in the target vessel, comprising: providing an outer element and an inner element, said inner element including a unitary body having a closed perimeter and an opening therethrough within said perimeter; and wherein said inner element is substantially oblong such that said inner element includes opposed long-dimensioned sides and opposed short-dimensioned sides; deforming at least a portion of said unitary body from an initial configuration to a compressed configuration by moving opposed sides of said inner element toward one another; inserting at

least part of said unitary body into the opening; expanding at least a portion of said unitary body from said compressed configuration to said initial configuration; and compressing a portion of the target vessel and a portion of the graft vessel together between at least a portion of said inner element and at least a portion of said outer element.”

The same discussion applies here as with regard to claim 1. Thus, Gifford neither discloses nor suggests each and every element claimed in claim 19, and it is believed that claim 19 is in condition for allowance. Claims 20-23, 25 and 28 depend from claim 19, and are thus believed to be in condition for allowance as well under MPEP 608.01(n)(III).

35 U.S.C. §103

MPEP 706.02(j) states:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q. 1438 (Fed. Cir. 1991) (emphasis added).

Claim 7

Claim 7 depends from independent claim 1, which is believed to be in condition for allowance, and is thus believed to be in condition for allowance as well under MPEP 608.01(n)(III).

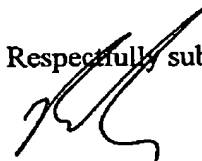
Further, like Gifford, U.S. Pat. No. 5,755,778 to Kleshinski (“Kleshinski”) fails to disclose a substantially oblong inner element. Instead, Kleshinski discloses two cylindrical cages joined at an angle to one another, both of which are radially symmetrical rather than

oblong.

REQUEST FOR ALLOWANCE

Allowance of the pending claims is respectfully solicited. Please contact the undersigned if there are any questions.

Respectfully submitted,



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